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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,005	01/31/2006	Stephen L. Spear	CE11608R	9877

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SCHAUMBURG, IL 60196

EXAMINER
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COPPOLA, JACOB C

ART UNIT	PAPER NUMBER
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3621

NOTIFICATION DATE	DELIVERY MODE
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08/05/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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Docketing.Schaumburg@motorola.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/567,005	<b>Applicant(s)</b> SPEAR, STEPHEN L.	
	<b>Examiner</b> JACOB C. COPPOLA	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>31 January 2006 and 19 May 2008</u> .                         | 6) <input type="checkbox"/> Other: _____                          |



## **DETAILED ACTION**

### **Acknowledgements**

1. This action is in reply to the application filed on 31 January 2006.
2. Claims 1-28 are currently pending and have been examined.
3. All references to the capitalized versions of "Applicants" refer specifically to the Applicants of record. Any references to lower case versions of "applicant" or "applicants" refer to any or all patent "applicants." Unless expressly noted otherwise, references to "Examiner" refers to the Examiner of record while reference to or use of the lower case version of "examiner" or "examiners" refers to examiner(s) generally. The notations in this paragraph apply to this Office Action and any future office action(s) as well.
4. This Office Action is given Paper No. 20080723. This Paper No. is for reference purposes only.

### **Information Disclosure Statement**

5. The Information Disclosure Statements filed 31 January 2006 and 19 May 2008 have been considered. Initialed copies of the Form 1449 are enclosed herewith.

**Claim Rejections - 35 USC § 112, 2<sup>nd</sup> Paragraph**

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 5 and 16 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

a. **As per claim 5**, the term "content translation server" is indefinite because—to one of ordinary skill in this art—the metes and bounds of the term can not be reasonably determined. First, the Examiner has carefully reviewed the original specification and can not locate, let alone ascertain, a lexicographic definition for this term. Second, the Examiner has again reviewed all documents of record in conjunction with MPEP §2141.03. Based upon this review and the review of the original specification, it is the Examiner's position that the term "content translation server" (as used in the context of these particular claims) is not known to those of ordinary skill in this art. However, if Applicant believes that the term *is* old and well known in the art, Applicant should (in their next appropriately filed response) expressly state on the record that the term is old and well known in the art and provide appropriate evidence in support thereof (e.g. a U.S. patent). Upon receiving (1) Applicant's express statement that the term is old and well known in the art and (2) sufficient evidence in support

thereof, the Examiner will withdraw this particular 35 U.S.C. §112, 2<sup>nd</sup> paragraph rejection.

b. **As per claim 16**, this claim recites “wherein the user biometric information comprises”. This claim is indefinite because one of ordinary skill in the art could not determine the scope of this claim if “user biometric information” was not chosen from the group of claim 15.

8. The Examiner finds that because the claims are indefinite under 35 U.S.C. §112, 2<sup>nd</sup> paragraph, it is impossible to properly construe claim scope at this time. However, in accordance with MPEP §2173.06 and the USPTO’s policy of trying to advance prosecution by providing art rejections even though these claims are indefinite, the claims are construed and the prior art is applied as much as practically possible.

### **Claim Rejections - 35 USC § 103**

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1, 6-15, 25, 27, and 28 are rejected under 35 U.S.C. §103(a) as being unpatentable over Parker et al. (U.S. 2004/0025013 A1) (“Parker”).

11. **As per claim 1**, Parker discloses *a method for enabling content provider authentication* (see abstract). Additionally, Parker discloses the limitations:

- c. *receiving, by a content delivery server (multicast content server **20A** in connection with switch/router **40**), a request ("a specific request") from user equipment (UE) ("a specific end user device") to activate a content delivery session ("a specific data flow") (see at least ¶ 0036);*
- d. *determining, by the content delivery server (multicast content server **20A** in connection with switch/router **40**), whether content provider authentication is required to activate the content delivery session for the UE ("a determination must then be made whether the requesting end user device is allowed access to the specific requested data flow") (see abstract and ¶ 0033);*
- e. *when content provider authentication is determined to be required, requesting (switch/router **40** formulates a query DTU to be sent to the policy server **50**), by the content delivery server (multicast content server **20A** in connection with switch/router **40**) from the content provider (policy server **50**), authentication for the UE for the content delivery session (see abstract, ¶ 0032, and ¶ 0033);*
- f. *when the content provider (policy server **50**) indicates a successful authentication for the UE for the content delivery session ("a positive response DTU from the policy server"), activating, by the content delivery server, the content delivery session for the UE ("allowing the requested data flow to proceed") (see abstract and ¶ 0038).*

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12. In this rejection the Examiner is relying upon Parker's multicast content server **20A** in operable connection to the switch/router **40** to perform the functions of the "receiving step", the "determining step", the "requesting step", and the "activating step" as performed by Applicant's claimed "content delivery server". It is the Examiner's position that it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to include in the content server of Parker the switch/router as taught by Parker since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

13. **As per claim 6**, Parker discloses the limitations of claim 1, as described above. Parker, further, discloses the limitations:

g. *wherein the content delivery session comprises a multicast session (see at least the title, abstract, and ¶ 0001).*

14. **As per claim 7**, Parker discloses the limitations of claim 1, as described above. Parker, further, discloses the limitations:

h. *wherein the request to activate the content delivery session comprises a request to receive particular content ("a specific data flow") from the content provider (see ¶ 0036).*



15. **As per claims 8 and 11**, Parker discloses the limitations of claim 1, as described above. Parker, further, discloses the limitations:

i. *wherein the request to activate the content delivery session comprises a request to subscribe to particular content from the content provider (see ¶ 0032);*  
and

j. *wherein activating the content delivery session for the UE comprises subscribing the UE to the content delivery session (see ¶ 0032).*

16. **As per claims 9 and 12**, Parker discloses the limitations of claim 1, as described above. Parker, further, discloses the limitations:

k. *wherein the request to activate the content delivery session comprises a request to join a multicast group for the content delivery session (see at least the abstract); and*

l. *wherein activating the content delivery session for the UE comprises adding the UE to a multicast group for the content delivery session (see at least the abstract).*

17. **As per claim 10**, Parker discloses the limitations of claim 9, as described above. Parker, further, discloses the limitations:

m. *wherein the request to join comprises a request from the group consisting of an Internet Group Management Protocol (IGMP) join message and a Multicast Listener Discovery (MLD) join message (see ¶ 0041).*

18. **As per claim 13**, Parker discloses the limitations of claim 1, as described above.

Parker, further, discloses the limitations:

n. *denying, by the content delivery server, the request from the UE to activate the content delivery session, when the content provider indicates a failed authentication for the UE for the content delivery session (see at least ¶ 0006).*

19. **As per claims 14 and 15**, Parker discloses the limitations of claim 1, as described above. Parker, further, discloses the limitations:

o. *wherein requesting authentication for the UE for the content delivery session comprises sending at least one authentication parameter ("identification information") for the UE to the content provider (see ¶ 0033 and ¶ 0041); and*

p. *wherein the at least one authentication parameter comprises at least one parameter from the group consisting of a login ID, a password, a UE identifier, a user identifier, smart card information, and user biometric information (see ¶ 0033 and ¶ 0041).*

20. **As per claim 25**, Parker discloses a content delivery server (content server

**20A**). Additionally, Parker discloses the limitations:

q. *a network interface (switch/router **40**) adapted to send and receive messaging using at least one communication protocol (see ¶ 0031+);*

r. *a processor (inherent to content server **20A**), communicatively coupled to the network interface (see ¶ 0031+),*

- s. *adapted to receive, via the network interface, a request from user equipment (UE) to activate a content delivery session (see at least abstract and ¶ 0032 - ¶ 0036),*
- t. *adapted to determine whether content provider authentication is required to activate the content delivery session for the UE (see at least abstract and ¶ 0032 - ¶ 0036),*
- u. *adapted to request, from the content provider via the network interface, authentication for the UE for the content delivery session, when content provider authentication is determined to be required (see at least abstract and ¶ 0032 - ¶ 0036),*
- v. *adapted to activate the content delivery session for the UE, when the content provider indicates a successful authentication for the UE for the content delivery session (see at least abstract and ¶ 0032 - ¶ 0036).*

21. In this rejection the Examiner is relying upon Parker's multicast content server **20A** in operable connection to the switch/router **40**. It is the Examiner's position that it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to include in the content server of Parker the switch/router as taught by Parker since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

22. **As per claim 27**, Parker discloses the limitations of claim 25, as described above. Parker, further, discloses the limitations:

w. *wherein requesting authentication for the UE for the content delivery session comprises sending, via the network interface, at least one authentication parameter for the UE to the content provider (see ¶ 0033).*

23. **As per claim 28**, Parker discloses *a content provider* (content provider: see abstract). Additionally, Parker discloses the limitations:

x. *a network interface (switch/router 40) adapted to send user content and to send and receive messaging using at least one communication protocol (see at least abstract and ¶ 0031 - ¶ 0036);*

y. *a processor (inherent to the policy server 50), communicatively coupled to the network interface (see at least abstract and ¶ 0031 - ¶ 0036),*

z. *adapted to receive, from a content delivery server via the network interface, an authentication request for activation of a content delivery session for user equipment (UE) (see at least abstract and ¶ 0031 - ¶ 0036),*

aa. *adapted to authenticate the UE for the content delivery session to produce an authentication result (see at least abstract and ¶ 0031 - ¶ 0036),*

bb. *adapted to send, to the content delivery server via the network interface, an indication of the authentication result (see at least abstract and ¶ 0031 - ¶ 0036).*

24. In this rejection the Examiner is relying upon Parker's multicast content server **20A** in operable connection to the switch/router **40**. It is the Examiner's position that it

would have been obvious to one of ordinary skill in the art, at the time the invention was made, to include in the content server of Parker the switch/router as taught by Parker since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

25. Claims 2, 5, and 17-24, as understood by the Examiner, are rejected under 35 U.S.C. §103(a) as being unpatentable over Parker et al. (U.S. 2004/0025013 A1) ("Parker"), in view of Fransdonk (U.S. 2003/0167392 A1) ("Fransdonk").

26. **As per claim 2**, Parker discloses the limitations of claim 1, as described above. Parker does not specifically disclose the limitations:

cc. *wherein the content delivery server comprises a mobile communications network content delivery server (see ¶ 0055).*

27. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to include in the content server system of Parker the mobile communications network content delivery server as taught by Fransdonk since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

28. **As per claim 5**, Parker/Fransdonk discloses the limitations of claim 1, as described above. Parker/Fransdonk, further, discloses the limitations:

dd. *wherein the content delivery server comprises a content translation server (see at least Parker, figure 1 and associated text).*

29. **As per claim 17**, Parker discloses the limitations of claim 1, as described above. Parker, further, discloses the limitations:

ee. *sending, by the content delivery server to the content provider, at least one authentication parameter for the UE (see ¶ 0033 and ¶ 0041).*

30. Parker does not specifically disclose the following limitations:

ff. *receiving, by the content delivery server from the content provider, a request for at least one authentication parameter for the UE.*

31. Fransdonk, however, does disclose a content provider (content distributor **20**) forwarding a request for at least one authentication parameter (“a derived XML signing request”) for a UE (conditional access client **48** residing in content destination **22**) to the UE itself.

32. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify Parker’s system by programming the policy server **50** to make a request for at least one authentication parameter, as disclosed by Fransdonk. Additionally, it would have been obvious to one of ordinary skill in the art, at the time the invention was made for the content server **20A** combined with switch/router **40** to receive the request from the policy server **50** and forward the request to the end user device **30A**. One would have been motivated to do so because this ability allows

the content provider to acquire additional authentication parameters for providing stronger security, as is customary in the industry.

33. **As per claim 18**, Parker/Fransdonk discloses the limitations of claim 17, as described above. Parker/Fransdonk, further, discloses the limitations:

gg. *sending, by the content delivery server, a request for at least one authentication parameter for the UE (see ¶ 0083).*

34. **As per claim 19**, Parker/Fransdonk discloses the limitations of claim 18, as described above. Parker/Fransdonk, further, discloses the limitations:

hh. *receiving, by the content delivery server, at least one authentication parameter for the UE from the UE (see ¶ 0033 and ¶ 0041).*

35. **As per claim 20**, Parker/Fransdonk discloses the limitations of claim 18, as described above. Parker/Fransdonk, further, discloses the limitations:

ii. *receiving, by the content delivery server, at least one authentication parameter for the UE from a mobile communications network database (see ¶ 0033 and ¶ 0041).*

36. **As per claims 21-24**, these claims are understood by the Examiner to be of substantially the same scope as claims 1 and 17. Accordingly, claims 21-24 are rejected in substantially the same manner as claims 1 and 17. If in response to this action the Applicant disagrees that the claims are of substantially the same scope, and provides evidence that they are of different scope, the Examiner may impose a restriction requirement at that time.

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37. Claims 3, 4, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker/Fransdonk, in further view of Official Notice.

38. **As per claims 3, 4, and 26**, Parker/Fransdonk discloses the limitations of claims 2 and 25, as described above. Parker/Fransdonk does not specifically disclose the limitations:

jj. *wherein the mobile communications network content delivery server comprises a multimedia broadcast/multicast service (MBMS) server.*

kk. *wherein the mobile communications network content delivery server comprises a broadcast-multicast service center (BM-SC).*

39. However, the Examiner takes Official Notice that MBMS servers and broadcast-multicast service centers are old and well-known in the art.

40. Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself – that is in the substitution of the MBMS or the BM-SC of the Official Notice for the content server of Parker/Fransdonk. Thus, the simple substitution of one known element for another, producing predictable results, renders the claim obvious.

41. Claim 16 is rejected under 35 U.S.C. §103(a) as being unpatentable over Parker, in view of Official Notice.



42. **As per claim 16**, Parker discloses the limitations of claim 15, as described above. Parker does not specifically disclose the limitations:

II. *wherein the user biometric information comprises biometric information from the group consisting of a photo, a voice sample, a retina scan, a finger print, and a palm print.*

43. However, the Examiner takes Official Notice that biometric information such as photos, voice samples, retina scans, finger prints, and palm prints are old and well-known in the art as authentication parameters because they identify individuals.

44. Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself – that is in the substitution of the various biometric data of the Official Notice for the authentication parameters of Parker/Fransdonk. Thus, the simple substitution of one known element for another, producing predictable results, renders the claim obvious.

45. The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as

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potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

46. In light of Applicants' choice to pursue product claims, Applicants are reminded that functional recitation(s) using the word and/or phrases "for", "adapted to", "configured to", or other functional language (*e.g.* see claim 25 which recites "a network interface adapted to send") have been considered but are given little patentable weight because they fail to add any structural limitations and are thereby regarded as intended use language. To be especially clear, all limitations have been considered. However, a recitation of the intended use of the claimed product must result in a structural difference between the claimed product and the prior art in order to patentably distinguish the claimed product from the prior art. If the prior art structure is capable of performing the intended use, then it reads on the claimed limitation. *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) ("The manner or method in which such a machine is to be utilized is not germane to the issue of patentability of the machine itself."); *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). See also MPEP §§ 31.06 II (C.), 2114 and 2115. Unless expressly noted otherwise by the Examiner, the claim interpretation principles in the paragraph apply to all claims currently pending.

47. Regarding the conditional elements in the claims (see *e.g.* claim 1 which recites that "when content provider authentication is determined"), they too have been considered. However, Applicants are reminded that optional or conditional elements do not narrow the claims because they can always be omitted. See *e.g.* MPEP §2106 II C: "Language that suggests or makes optional but does not require steps to be performed

or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. [Emphasis in original.]”

48. Using the broadest reasonable interpretation, the following definitions are relied upon by the Examiner when interpreting claim language:

mm. ***multicasting*** “The process of sending a message simultaneously to more than one destination on a network.” (Computer Dictionary, 5<sup>th</sup> Edition, Microsoft Press, Redmond, WA, 2002)

nn. ***database*** “A file composed of records, each containing fields together with a set of operations for searching, sorting, recombining, and other functions.” *Id.*

### Conclusion

49. In accordance with *In re Lee*, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002), the Examiner finds that the references How Computers Work, Millennium Ed. By Ron White; How Networks Work, Bestseller Ed. By Frank J. Derfler et al.; How the Internet Works, Millennium Ed. By Preston Gralla; and Desktop Encyclopedia of the Internet by Nathan J. Muller, are additional evidence of what is basic knowledge or common sense to one of ordinary skill in this art. Each reference is cited in its entirety. Moreover, because these references are directed towards beginners (see e.g. “User Level Beginning...”), because of the references’ basic content (which is self-evident upon examination of the references), and after further review of the entire record including the prior art now of record in conjunction with the factors as discussed in MPEP §2141.03 (where practical), the Examiner finds that these

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references are primarily directed towards those of low skill in this art. Because these references are directed towards those of low skill in this art, the Examiner finds that one of ordinary skill in this art must—at the very least—be aware of and understand the knowledge and information contained within these references.

50. Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to Jacob C. Coppola whose telephone number is (571) 270-3922. The Examiner can normally be reached on Monday-Friday, 9:00 a.m. - 5:00 p.m. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer can be reached at (571) 272-6779.

51. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, please contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

/Jacob C Coppola/  
Examiner, Art Unit 3621  
July 23, 2008

/ANDREW J. FISCHER/  
Supervisory Patent Examiner, Art Unit 3621